FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.6242 OF 2005

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders

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Shri U.P.Warunjikar for the petitioners.

Coram : R.S.Mohite,J

Date : 25.11.2005.

PC

1. By this petition, the petitioners impugn an order dated 29.8.2005 passed by the IInd Joint Civil Judge, Junior Division, Wai below Exh.91 in R.C.Suit No.26 of 1999. I have heard the Advocate for the petitioners. The amendment was sought after the trial had commenced and the plaintiff's evidence had been completed. The evidence of defendant is in progress. Save & except mentioning that the pleadings

were left out by oversight there is no other reason given as to why application for amendment was preferred after trial commenced. In view of the proviso of Order 6 Rule 17 the trial Court was therefore, entitled to reject the prayer for amendment. Even otherwise on perusing the nature of the amendment, it appears to be the contention that some additional parties ought to have been added by the plaintiff as a necessary party. Non joinder of necessary party can be argued at the stage of hearing. Reference is sought to be made in the amendment to certain documents. It is noticed that the defendant has already led some evidence on the question of partition. It is open for the defendant to prove these documents if they are relevant and admissible. Not a fit case for interference in writ jurisdiction under Article 227 of the Constitution of India. Rejected.

(R.S.Mohite,J)